

Minneapolis Community Development Agency

Request for City Council Action

Date: September 16, 2003

To: Council Member Lisa Goodman, Community Development Committee
Council Member Barbara Johnson, Ways & Means/Budget Committee

Refer to: MCDA Board of Commissioners

Prepared by Ann Calvert, Senior Project Coordinator, Phone 612-673-5023

Approved by Lee Sheehy, Interim Director, CPED
Chuck Lutz, Deputy Director, CPED _____

Subject: Guthrie Theater – Acceptance of \$25,000,000 State of Minnesota Grant, Appropriation of Funds and Execution of Related Documents

Previous Directives: On February 2, 2001, the City Council and MCDA Board authorized execution of a letter of intent between the City, MCDA and Guthrie Theater and approved a package of pre-implementation activities. On March 23, 2001, the City Council and MCDA Board approved various actions related to an archaeological study of the Guthrie site. On May 18, 2001, the City Council and MCDA Board authorized the execution of a redevelopment agreement with the Guthrie Theater Foundation and established goals under the Business Subsidy Act. On December 28, 2001, the MCDA Board authorized the acceptance of an easement from the Minneapolis Park and Recreation Board to facilitate the theater project. On May 3, 2002, the City Council designated the area in which the Guthrie project is located as a “targeted neighborhood” in which Port Authority bonding powers may be used. On November 22, 2002, the City Council and MCDA Board authorized execution of an amended redevelopment agreement and various other related actions, including prioritizing the Guthrie’s request for state grant funding. On July 25, 2003, the City Council gave preliminary approval to issue 501(c)(3) bonds for the project.

Ward: 2

Neighborhood Group Notification: The Guthrie project has been presented on several occasions to the Downtown Minneapolis Neighborhood Association and the Industry Square Project Committee, and both organizations support the project.

Consistency with *Building a City That Works*: Achieves Goal 4.B and D by preserving and enhancing the Guthrie Theater as a unique Minneapolis amenity and developing an MCDA-owned Central Riverfront site.

Comprehensive Plan Compliance: The City Planning Commission has approved the actions needed for the Guthrie project.

Zoning Code Compliance: The site is zoned C3A; a Conditional Use Permit has been approved for the indoor theaters and parking facilities.

Impact on MCDA Budget: (Check those that apply)

- ☐ No financial impact
- ☒ Action requires an appropriation increase to the MCDA Budget (Fund SMN)
- ☒ Action provides increased revenue for appropriation increase
- ☐ Action requires use of contingency or reserves
- ☒ Other financial impact (Explain): Possible future liabilities

Living Wage / Business Subsidy: The Guthrie Theater will enter into a business subsidy agreement with the MCDA.

Job Linkage: The Guthrie Theater will enter into a job linkage agreement with the MCDA.

Affirmative Action Compliance: The Guthrie Theater will be required to comply with affirmative action requirements.

RECOMMENDATION: The Interim CPED Director recommends that the City Council:

- 1) adopt the enclosed resolution establishing the governmental program to be achieved through construction and operation of the Guthrie Theater complex on the Minneapolis riverfront and transferring the role of recipient of the State grant from the MCDA to the City,
- 2) accept the \$25,000,000 grant from the State of Minnesota for the Guthrie Theater project,
- 3) authorize the appropriate city officials to execute:
 - a) a grant agreement with the State of Minnesota,
 - b) a use/lease agreement with the Guthrie Theater Foundation,
 - c) a ground lease with the Guthrie Theater Foundation,
 - d) a master disbursement agreement with a title company and other funders,
 - e) and such other documents as necessary to implement the project,all in accordance with the terms herein,
- 4) amend the 2003 Appropriation resolution to increase the appropriation in Fund SMN (State Grants) by \$25,000,000 and increase the Fund SMN 2003 revenue (3215-04 MN State Grants) by \$25,000,000, and
- 5) refer this report to the MCDA Board of Commissioners.

MCDA Board Recommendation: The Interim CPED Director recommends that the MCDA Board of Commissioners agree that the recipient of the State grant for the Guthrie Theater project be the City of Minneapolis instead of the MCDA.

Background/Supporting Information

The State of Minnesota in its 2003 legislative session approved a grant of \$25,000,000 for the design and construction of the Guthrie Theater project. This grant was appropriated to the MCDA or its successor and, as a result of state grant requirements, the MCDA or its successor must own the theater complex. Given the planned transfer of the MCDA's assets, programs and roles to the new CPED department, it is recommended that the recipient of the grant be the City rather than the MCDA. The Guthrie Theater will ground lease to the City the portion of the Guthrie property that will be improved with the theater complex, and the City in turn will enter into a use/lease agreement under which the Guthrie will build the theater complex on the ground lease property and be responsible for the operation and management of the theater complex. This report outlines the actions that must be taken at this time relative to the State grant in order to allow the project to move forward.

Progress continues on implementation of the project. All formal zoning and planning approvals have been granted, and the construction plans have been approved. The MCDA has granted the Guthrie a right of entry to allow it to begin construction preparations, hold its ceremonial ground-breaking and stage *Carmen Funebre* on the MCDA-owned parcel, and the parcel will be sold to the Guthrie in the near future. Final approval of the sale of 501(c)(3) bonds is being proposed in a separate report being considered this cycle, and the bonds are expected to close at the same time the agreements related to the State grant are executed. Construction will start in full force soon thereafter and will take about 27 months to be completed, with the grand opening of the complex to the public planned for May of 2006.

Proposed Resolution and Grant, Ground Lease, Use and Disbursement Agreements

The State \$25,000,000 grant will be funded by State G.O. bond proceeds and must be used by a public entity to construct a publicly-owned facility that meets a public purpose. The attached resolution formally establishes the public purpose and governmental program to be achieved by the City as recipient of the State grant and outlines the statutory authority under which the City will undertake this project. The resolution also formally transfers the MCDA rights and responsibilities as recipient of the State grant to the City of Minneapolis as its successor.

Pursuant to an agreement between the State of Minnesota Department of Administration and the City, the State will provide the grant to the City in accordance with the terms outlined in Exhibit A. After acquisition of the theater property from the MCDA and City, the Guthrie will convey/ground lease back to the City for \$1.00 the portion of the property upon which the theater complex will be constructed (see Exhibit B). The Guthrie will construct the theater using the State grant, the 501 (c)(3) bond proceeds and equity. These funds will be disbursed in accordance with a customary disbursement agreement.

It should be noted that, as with all projects funded by a State construction grant, the City will have certain obligations as the public recipient of the grant. This includes being responsible for monitoring the construction of the project and assuring there are sufficient funds for the completion. A team of staff people, including the City Finance Officer, has reviewed and approved the proposed financing plan, and the Guthrie will be required to supply at bond sale closing all funds needed to fully fund the project. Payment and performance bonds and insurance also will be required to mitigate construction period risks, and disbursements will be made by a title company that will assure that there are always sufficient funds to cover project costs. The State will retain the right to reduce the amount of the grant in the event the State legislature reduces the approved amount, so monitoring of this possibility will be required until the grant is fully disbursed. One of the possible remedies in the event of default by the City under the grant agreement would be repayment to the State of the grant amount (subject to a declining balance as outlined in Exhibit A) or the withholding by the State of an equivalent amount of LGA payments. Under the use/lease agreement described below, the City may impose upon the Guthrie any remedies imposed upon the City by the State if the default in question is due to the Guthrie.

The City and Guthrie will enter into a use/lease agreement as outlined in Exhibit C under which the actual long-term operation of the completed theater complex will be the responsibility of the Guthrie Theater. Under this agreement, the Guthrie will operate the theater and related/ancillary uses, will pay all operating costs and must submit for the City's approval annual summaries of the previous year's program, revenues and expenses and proposed future budgets and programs to assure that the project is financially stable and is meeting the intended public purposes. In the event that the Guthrie were not able to operate the theater and went into default under the use/lease agreement, the City would have some risks related to the on-going operation of the theater to comply with the grant agreement. These would include a responsibility to work with the Guthrie and a consultant to seek ways to cure operational problems and interim property management costs after the use/lease agreement were terminated. The City could elect to seek an alternate theater operator, and if the City eventually were to find that the Project is no longer needed or usable for the theater program, the City could seek the State's permission to sell its leasehold interests, with sales proceeds to be distributed as outlined in the term sheets. Provisions will be included in the ground lease and/or use agreements to moderate these risks. As part of the finance plan review, MCDA and City staff also reviewed the Guthrie's initial projections of operating revenues and expenses to verify that the project appears financially viable.

Establishing the governmental program to be achieved through construction and operation of the Guthrie Theater complex on the Minneapolis riverfront and transferring the state grant for the project to the city.

WHEREAS, the City of Minneapolis (the “City”) has adopted the *Downtown 2010* plan as a component of the City’s Comprehensive Plan (Policy 3.2), and one of the goals set forth in *Downtown 2010* is to strengthen downtown’s role as the region’s center for arts, entertainment and culture; and

WHEREAS, the City’s Comprehensive Plan also includes policies supporting the promotion of the economic and creative vitality of arts activities based in the City (Policy 6.5) and supporting the role of arts in tourism and community pride (Policy 6.6); and

WHEREAS, the City and the Minneapolis Community Development Agency (“MCDA”) have been implementing long-term plans to redevelop the central riverfront for a combination of land uses that complement the national significance of the Mississippi River and that provide amenities for residents and visitors; and

WHEREAS, the MCDA’s business plan includes in its goals the redevelopment of the central riverfront (Goal 4.B) and the enhancement of unique Minneapolis institutions and amenities (Goal 4.D); and

WHEREAS, the Guthrie Theater has been one of Minneapolis’ pre-eminent cultural institutions for over four decades and is one of the unique amenities and arts institutions that Minneapolis desires to retain, enhance, support and promote; and

WHEREAS, the Guthrie Theater has an active program to expose Minneapolis and other students to live theater and to train college students in theater arts in cooperation with the University of Minnesota and the new complex will provide enhanced physical facilities for these educational programs; and

WHEREAS, an expanded Guthrie Theater will result in an increased number of direct and indirect jobs; and

WHEREAS, the Guthrie Theater Foundation has selected a site in the downtown central riverfront for an expanded theater complex that will achieve the goals of *Downtown 2010* and the MCDA’s business plan goals; and

WHEREAS, Minnesota Statutes, sections 469.001-469.047, as amended, authorize the establishment of redevelopment projects to provide for the development and redevelopment of

selected areas of the City. On July 25, 1973, the City Council of the City and the Board of the MCDA approved the Industry Square Redevelopment Plan establishing the Industry Square Redevelopment Project; and

WHEREAS, the site selected for the new Guthrie theater complex is located within the Industry Square Redevelopment Project; and

WHEREAS, the objectives of the Industry Square Redevelopment Plan include supplementing the financial base of the community and accomplishing the goals of the *Mississippi/Minneapolis* report; and

WHEREAS, the *Mississippi/Minneapolis* report identified the Industry Square area as an appropriate location for a cultural center; and

WHEREAS, the proposed new Guthrie Theater complex is expected to generate significant economic benefits in the form of direct and indirect construction spending, increased tourism and direct and indirect spending by patrons of the theater; and

WHEREAS, a 2002 study of the impact of arts estimated that the Minneapolis nonprofit arts industry generates \$269.4 million in economic activity annually, including jobs, household income and revenues to local and state government; and

WHEREAS, the site for the proposed new Guthrie Theater complex is located within a portion of the Industry Square area known as the Historic Mills District, and the *Update to the Historic Mills District Plan* (approved by the City Council in September of 2001) specifically approved the proposed site as the location for a new Guthrie Theater complex; and

WHEREAS, Minnesota Statutes, section 469.012, authorizes the City to own, hold and improve real estate within its area of operation and to lease real and/or personal property, and Minnesota Statutes, section 469.155 authorizes the City to acquire, construct, hold and finance projects; and

WHEREAS, Minnesota Statutes, section 471.191 authorizes the City, as part of its operation of a public recreation program that may include facilities for cultural participation and exhibitions, to acquire, lease, equip, and maintain land, buildings and other improvements; and

WHEREAS, Minnesota Statutes, section 471.941 authorizes the City to appropriate funds to support artistic organizations; and

WHEREAS, the State of Minnesota has approved a \$25,000,000 grant to the MCDA or its successor to design, construct, furnish and equip a new Guthrie Theater in the City of Minneapolis; and

WHEREAS, to satisfy conditions of the State grant, the MCDA or its successor must own the new Guthrie Theater complex, but may enter into a use agreement with the Guthrie Theater Foundation under which it will take on responsibility for the operation of the theater complex, and

WHEREAS, pursuant to Laws 2003, chapter 127, article 12, sections 31 – 34 and Minneapolis Ordinance 2003-Or-104, the City has created the Community Planning and Economic Development department and is in the process of transferring the functions, assets, programs, projects, employees and obligations of the MCDA to the CPED department of the City.

NOW, THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF MINNEAPOLIS:

1. **THAT** the construction, ownership and operation of a new Guthrie Theater complex in the Central Riverfront area will achieve the important public goals of the City and the MCDA identified above.
2. **BE IT FURTHER RESOLVED THAT** the acquisition, construction, ownership, financing, lease and operation of a new Guthrie Theater are within the City's authority under Minnesota Statutes, sections 469.001-047, 469.155, 471.191 and 471.941
3. **BE IT FURTHER RESOLVED THAT** the governmental program to be achieved by the City's sponsorship of the new Guthrie Theater complex will be the production and presentation of theatrical performances, together with educational programming, other cultural performances and related and ancillary uses, pursuant to which the City expects to support cultural participation and encourage economic development and tourism.
4. **BE IT FURTHER RESOLVED THAT** all of the MCDA's right, title and interest in the approved State grant are hereby transferred to the City.
5. **BE IT FURTHER RESOLVED THAT** the City hereby accepts the grant of \$25,000,000 from the State of Minnesota and authorizes the appropriate City officials to execute a grant agreement with the State of Minnesota, a ground lease with the Guthrie Theater Foundation, a master disbursement agreement with the State of Minnesota, Guthrie Theater Foundation and others, a use/lease agreement with the Guthrie Theater Foundation, and such other documents as necessary to implement the project.

EXHIBIT A

TERM SHEET

STATE OF MINNESOTA CONSTRUCTION GRANT TO MCDA OR CITY FOR GUTHRIE PROJECT

Draft – 9/10/03

Parties:

State Entity – Minnesota Department of Administration

Public Entity – City of Minneapolis

Amount – \$25,000,000

Use – Design, construction, equipping and furnishing of Improvements (as defined in the City/MCDA/Guthrie Redevelopment Contract) that include three theaters, associated administrative and production space, and related and ancillary uses, such as a visitor information center, retail space and food/beverage service at the upper lobby levels. (The State may require that the first floor restaurant be a separate condominium owned by the Guthrie and funded entirely with Guthrie funds, which would not be subject to the Declaration.) The Project will be constructed on Parcel A-1 and Parcel B (as both terms are defined in the Redevelopment Contract). If the Guthrie elects to take over the Parcel E parking facility, that parking will not be considered part of the Facility. The Project will include the City's ground lease interest in Parcels A-1 and B.

Termination – The Project must start no later than the earlier of: a) June 1, 2007, or b) the construction start deadline established in the Redevelopment Contract, as amended from time to time. All funds must be disbursed within five years after the effective date of the grant agreement, or the grant agreement will terminate (unless mutually extended). The grant agreement and its provisions also will terminate at the end of the City's ground lease.

Compliance with state laws and requirements – The City will comply with (and/or cause the Guthrie to comply with) all requirements necessitated by State laws and the State constitution, including:

- Repayment of the disbursed grant amount to the State in the event of an uncured event of default. Repayment amount will be 100% of the disbursed grant amount during the first five years after the theater opening and will be reduced 1/15 for every year after Year 5 and until year 20. No repayment upon default will be required beginning 20 years after the theater opening.
- Adherence with general obligation bond requirements to assure that interest on the State bonds remains exempt from taxes.
- The Facility must be insured.
- A Declaration must be filed against Parcels A-1 and B that will assure compliance with the terms of the grant agreement.

- If the City determines that the Facility is no longer needed or usable for the Governmental Program and the Finance Commissioner consents, the Project may be sold. It must be sold for “fair market value” and the net proceeds after sale-related costs used first to repay the State grant. The State will also share in any residual after other obligations (i.e., outstanding debt and a payment to the Guthrie for the underlying fee title as provided in the ground lease) are repaid in proportion to its contribution compared to the matching funds contribution (i.e., 20% State to 80% Guthrie).

Use agreement – The City may enter into a use agreement with the Guthrie to operate the Governmental Program in the Project, subject to said use agreement being approved by the State and in accordance with State requirements (see Exhibit C).

Design review – The City must submit (or cause the Guthrie to submit) the Facility predesign plans and a program plan and cost estimates for State review in accordance with its standard requirements.

Matching funds – The City will provide (or cause the Guthrie) to provide \$97,000,000 in matching funds to meet the State of Minnesota’s requirements -- \$67,000,000 from capital campaign pledges, \$15,000,000 in Guthrie assets (that may be replaced on a dollar-for-dollar basis as additional pledges are received) and \$15,000,000 in funds that will have been expended by the Guthrie by the time the grant agreement is signed. The City also will provide or cause the Guthrie to provide all resources at closing needed to fully fund the land acquisition and completion of the Improvements.

Disbursements – To be made in accordance with the following and the terms of a Master Disbursement Agreement.

- **Draws** – State funds will be made available to bond trustee or title company on a draw by draw basis.
- **Project Costs** – All costs to construct, install, furnish and equip the Improvements, including related design and consultant costs.
- **Documentation prior to disbursement** – Funds to be disbursed upon submission of appropriate documentation, including project completion status, lien waivers and sufficiency of remaining funds.
- **Filing of Declaration** – No State funds will be disbursed until the Declaration is filed against Parcels A-1 and B.
- **Reimbursement proportions** – Disbursements will be made from 80% matching funds and 20% State of Minnesota grant funds, and State funds may only be used for qualified capital expenditures that are incurred on or after April 15, 2003.

Other provisions – The agreement will provide for retainage and other security (including a payment and performance bond or other security to assure completion of the Project).

EXHIBIT B

TERM SHEET

GROUND LEASE BETWEEN GUTHRIE AND MCDA OR CITY

Draft 9/10/03

Parties:

Lessor – Guthrie Theater Foundation

Lessee – City of Minneapolis

Premises – Parcels A-1 and B as defined in the City/MCDA/Guthrie Redevelopment Contract (including appurtenant easements and vacated air rights over Second Street), together with the Improvements (as defined in the Redevelopment Contract) to be constructed thereon, including the restaurant condominium. No prior mortgages.

Term – 50 years, which is 125% of the useful life of the Improvements, commencing on the date of execution, which cannot be prematurely cancelled without the prior approval of the Minnesota Department of Administration.

Rent -- \$0 per year, with the Guthrie responsible for all operating, maintenance, taxes, insurance and other costs pursuant to the Lease/Use Agreement to be executed simultaneously with the Ground Lease.

Conditions – The City's obligations under the Ground Lease are contingent upon: concurrent execution of the Construction Grant Agreement by the State and the Lease/Use Agreement by the Guthrie; Commissioner of Finance approval of such agreements; receipt of title insurance commitment acceptable to City (with insurance premium to be paid by the Guthrie).

Indemnity -- Guthrie will agree to indemnify, defend and hold harmless the City from any actions, proceedings or claims, of whatsoever nature, including attorney's fees, arising out of the condition, ownership, use, or operation of the Premises.

Title to improvements -- Upon termination of the Ground Lease (e.g., at the end of the 50 year term) or of the City's right to possession of the Premises, the City shall immediately quit and surrender possession of the Premises to the Guthrie in its then condition.

Sale or assignment – The City shall not assign or sublet its interest in the Ground Lease or the Premises without the prior written consent of the Guthrie and the Commissioner of Administration.

Limitation – There will be no personal liability on the part of City, or its officers, directors, members, employees and agents, to the Guthrie with respect to any of the terms, covenants and conditions of the Ground Lease, and the Guthrie shall look solely to recovering possession of the Premises in the event of any breach by the City of any of the terms, covenants and conditions of the Ground Lease to be performed by City.

Sale in event of default – If the Use/Lease agreement is terminated as a result of a default by the Guthrie and if the eventual result is a decision by the City to sell (with State approval) the City's interest in the Premises, then the Guthrie will agree to convey fee title to the Premises to the purchaser of the City's ground lease interest in the Premises. The price for said fee title will be the lesser of: a) the Guthrie's cumulative capital investment in the Premises, and b) the amount of proceeds remaining after the City's sale-related costs, State grant and any outstanding debt have been repaid. The City's sale-related costs will include any interim property management. (Any residual sales proceeds remaining after the payment for fee title will be shared in accordance with the Grant Agreement.)

Other provisions –Guthrie through Lease/Use Agreement will

- Comply with laws
- Pay taxes, if any
- Maintain and insure the Premises
- Consent to a leasehold mortgage

Miscellaneous

- Notices
- Estoppels
- Etc.

EXHIBIT C

TERM SHEET

LEASE/USE CONTRACT BETWEEN MCDA OR CITY AND GUTHRIE

Draft 9/10/03

Parties:

Lessor – City of Minneapolis

Lessee – Guthrie Theater Foundation

Subject to approval by State

Governmental Program – The City will lease the Premises to the Guthrie to construct the Improvements and operate the “Governmental Program,” which is the production and presentation of theatrical performances, together with educational programming, other cultural performances and related and ancillary uses. Minnesota Statutes Chapter 469, and sections 471.191 and 471.941 provide the City the necessary authority to undertake the program.

Premises – The City’s ground lease interests in Parcels A-1 and B, plus the improvements to be constructed thereon, including the restaurant condominium. The lease will initially cover Parcel A-1 and be expanded to include Parcel B after said parcel has been acquired from HCRRA, created by Registered Land Survey, sold by the City to the Guthrie and ground leased back to the City.

Term – The initial lease term will be 22.5 years. The Guthrie may renew the lease for an additional 20 years if the City determines by official action that such renewal continues to carry out the Governmental Program. The Guthrie will have a second renewal option to extend the term until the end of the underlying ground lease if the City again determines by official action that such renewal continues to carry out the Governmental Program.

Rent -- \$0 per year, with the Guthrie responsible for all operating, maintenance and other costs, including any taxes or special assessments.

Initial Improvements and Funding – The Guthrie will build the Improvements (as defined in the Redevelopment Contract) in accordance with the Redevelopment Contract and provide the resources to meet the State match requirement, fully fund the Improvements at closing and secure repayment of the 501(c)(3) bonds. The State-required match will include \$67,000,000 from capital campaign pledges, \$15,000,000 in Guthrie assets (that may be replaced on a dollar-for-dollar basis as additional pledges are received) and \$15,000,000 in funds that will have been expended by the Guthrie by the time the grant agreement is signed. The City will provide the State grant funds to the Guthrie to cover the appropriate share of the Project cost.

Reporting and oversight – The Guthrie must:

- Submit the predesign plans and a program plan and cost estimates for State review in accordance with its standard requirements and make any changes needed for approval.
- After the Facility is completed, submit annual reports: a) certifying that the Premises have been used for a theater and related and ancillary uses, b) summarizing the previous year's program and actual revenues and expenses, and c) proposing a program and budget for the upcoming year for review and approval by the CPED Director that: a) the Guthrie is continuing to carry out the legislative intent as outlined in the Governmental Program, and b) the projected revenues will support the projected expenses. The program report will include at minimum information (both actual and projections) about the number of theater attendees (sorted by zip code, if such data is available), number of people served by the educational programs, number and summary of plays to be performed in each of the three theaters, number and summary of touring plays and number of other cultural activities in the Premises. The City will not have artistic control over the selection of plays and programs.
- Maintain books and records.

Allowed uses – Live performance theaters, associated administrative and production space, educational classrooms, related and ancillary uses (e.g., a visitor information center, a retail store and food/beverage service, operated by the Guthrie and/or operated by others within the Improvements).

Financing – The Guthrie may encumber its leasehold interests in the Premises with a subordinate mortgage.

Future potential sale – In the event the lease is terminated and the City determines that the Premises are no longer usable or needed for the Governmental Program and/or the Governmental Program is terminated, the City may sell the Premises with the consent of the Commissioner of Finance. Said sale must be for "fair market value." The net sale proceeds after sale-related costs will go first to repay the State grant, then to retire any outstanding financing and acquire underlying fee title to the Premises, then will be split between the State of Minnesota and Guthrie in proportion to the table below. The Guthrie will reimburse the City for any costs incurred in the sale and/or property management in the interim between when the Guthrie is no longer operating the property and the eventual sale.

Sources of project funds	Amount*	Percentage allocation*
State of Minnesota	\$25,000,000	20%
Guthrie Theater Foundation	\$100,000,000	80%
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	\$125,000,000	100%

Default under State grant agreement – In the event that a default under the use/lease agreement results in the City being in default under the State grant agreement, the City may impose upon the Guthrie any remedy imposed upon the City by the State.

Other provisions – The Guthrie:

- cannot sublet without the City's consent
- may make additional improvements or modifications to the Premises without the City's approval, as long as said improvements or modifications don't reduce the Project's value or the ability to achieve the Governmental Program.
- must maintain and insure the Premises and restore them in the event of damage
- must indemnify the City against liability for Guthrie actions in building, maintaining and operating the Facility on the Premises
- must list its job openings with the State of Minnesota for one year
- must comply with any other requirements imposed by the State
- must covenant to manage and invest its "endowment" assets in such a manner as to assure that: a) there are sufficient funds to complete the Improvements, b) the operation of the Governmental Program remains financially viable for the duration of the lease, and c) the bonds and State grant can be repaid in the event of a non-cured default by the Guthrie.